

CAR DEATH PRESENTS QUANDARY LAW ENFORCEMENT, LAWYERS DEBATE WHETHER FATHER SHOULD BE CHARGED.

[Broward Metro Edition]

South Florida Sun - Sentinel - Fort Lauderdale, Fla.

Author: Marc Freeman, Angel Streeter and Diane Lade Staff Writers Staff Researcher
William Lucey and staff writer Akilah Johnson contributed to this report.

Date: Jul 17, 2004

Start Page: 1.A

Section: LOCAL

Text Word
Count: 1343

Document Text

Informational box at end of text.

Andres Sierra's death in a baking vehicle Thursday seems to force prosecutors to make a wrenching choice: whether to charge a parent with his child's death or offer leniency from the law.

Palm Beach County sheriff's investigators Friday continued to examine the death of the 3-year-old left in an SUV outside his father's dental office west of Boca Raton. A spokeswoman again called it an accident. Criminal charges remain a possibility, she said.

In the wake of the tragedy, an outpouring of sympathy for Dr. Dennis Francisco Sierra mixed with seeming pressure on prosecutors to consider felony accountability.

"The state will look at this case as having a dead baby and something needs to be done about it," said Richard Tendler, a West Palm Beach criminal defense attorney. "They can't simply ignore it. You can pretty much rest assured they will prosecute him."

At his Parkland home, Sierra grieved in seclusion with his wife, 6-year-old son Sebastian, other relatives and friends, said the dentist's attorney Michael Salnick. He is urging investigators "to see it's an accident in the purest sense."

"They're totally devastated," Salnick said of the family. "They're just trying to do their best. You never heal from something like this."

Sierra, 42, took Andres to work with him in the Mission Bay Office Plaza about 9:30 a.m. Thursday. About three hours later, a relative called to find out how Sierra and Andres' day was going, setting off a frantic but futile rescue attempt beside his Ford Explorer. The toddler died in West Boca Medical Center at 1:27 p.m., according to sheriff's spokeswoman Diane Carhart.

An autopsy was done on Andres early Friday morning, but officials have not released results. They also wouldn't say what Andres' temperature was when he died.

Investigators interviewed Sierra's wife, Maria Ochoa, on Friday, but had not talked to Sierra, Carhart said. The state Department of Children & Families, which handles child-abuse cases, interviewed the family Thursday and has opened an investigation. Marilyn Munoz, DCF district spokeswoman, said such action is standard any time a child dies.

Investigators are sympathetic to Sierra's loss, but said that understanding will not cloud their judgment.

"There's the human side of us when we do this job, but we all have to look at the facts of the case," Capt. Jim Stormes, head of the sheriff's special-investigations unit, said. "We have to do our job. Whether we're sympathetic or not is not going to impact whether we charge this gentleman or not."

Sierra could be charged with manslaughter by culpable negligence, said Mike Edmondson, spokesman for the Palm Beach County State Attorney's office. This charge applies to cases where an adult is accountable even though he or she didn't intend for a child to die. Prosecutors would have to prove the adult consciously did something he or she should have known was likely to cause injury or death.

Other possible charges are child neglect and child endangerment. Investigators also could determine "that it was a horrible accident" and nothing more.

"It depends on the totality of the circumstances in a particular case," Edmondson said.

Salnick said he spent Friday reviewing cases around the country in which children died after being left unsupervised in a car, and was struck by how different each has been handled.

"Cases in some instances are filed, and in others they aren't," Salnick said. "I don't think I've ever been involved in a case that has this much emotion."

He suggested to the State Attorney's Office that the case go to a grand jury for a decision whether to indict Sierra.

"It gets the prosecutor off the hook and basically lets the people decide," Salnick said.

Grand juries usually are reserved for first-degree murder cases, said Edmondson, calling it a decision left to State Attorney Barry Krischer.

Andres Sierra's death is the 14th such incident in the United States this year and the fourth in Florida, according to Kids and Cars, a nonprofit group based in Kansas City that works to prevent children being killed or injured in non-traffic-related incidents.

Nationally, there were 42 hyperthermia fatalities last year, including two reviewed by Clark County, Nev., District Attorney David Roger. In both those instances, there were no charges against the parents because Nevada law requires an intentional act before a child-neglect prosecution.

"There are many people who feel if a child dies someone has to pay," Roger said. "But that's not the way it is in this state."

Gregg Lerman, a West Palm Beach criminal defense lawyer, expects to see Sierra brought up on the culpable-negligence charge even though he asked, "What does the state gain by prosecuting this guy?" "You would think he's going through enough personal tragedy," Lerman said. "He's got to live with it. He's accountable to it every time he wakes up and looks in the mirror."

Dennis Sierra started his schooling in his native Colombia, and then graduated from the University of Florida College School of Dentistry in 1996. He got his Florida license the same year. Maria Ochoa, his wife, is licensed in Florida as a registered nurse, but Salnick said she is a stay-at-home mom.

Sierra has worked to build up his practice, those who know him said.

Back when Jim Cox started going to Boca Mission Bay Dentistry about four years ago, the walls were bare and folding chairs greeted patients in the lobby, he said. But as the practice grew, cushy, comfortable chairs replaced the folding ones, and placards designating Sierra the "Best of Boca" from 2001 to 2003 decorate the walls.

Since Thursday, local dentists have volunteered to take care of Sierra's patients while he mourns.

Funeral arrangements for Andres have not been announced.

Staff Researcher William Lucey and staff writer Akilah Johnson contributed to this report.

Marc Freeman can be reached at mjfreeman@sun-sentinel.com or 561- 243-6642.

CAR DEATH VICTIMS

April 7: Savannah Wildman, 4 months old, dies after she is left in the car by her mother, Melisa Wildman, who was charged with aggravated manslaughter.

March: Antonio Balta receives the same charge in March after his 9-month-old daughter, Veronika Balta dies while strapped in her car seat as her father watches horse races at Gulfstream Park in Hallandale.

Chelcie Gonzalez-Ambrosio, 10 months old, is left in her car seat by her mother for about an hour in the parking lot of a Pompano Beach Wal-Mart.

April 6, 2003: Devontrius Nelson, a 3-year-old boy from Winter Haven, traps himself inside the back seat of his family' car until his mother finds him alive. The toddler later dies at Winter Haven hospital.

Sept. 26, 2002: A 5-month old, Angel Frank Pirgo from Deltona, dies in the car after being left there for 90 minutes in extreme heat, according to an autopsy report. The baby was in the care of his grandmother.

Aug. 29, 2002: Philip Gutmann, a 7-month-old boy, dies from heatstroke after being left unattended in the back of a minivan because his mother, of the suburban Narjana neighborhood, forgot to drop him off at a day care center.

Aug. 28, 2002: Jeanette Christmas, 25, of Naples, leaves her 2- year-old baby in a car for more than nine hours, resulting in the infant's death. Christmas told police she forgot to drop her baby off at day care.

July 28, 2002: Daniel McCray, 23 months old, dies of heatstroke after being left alone for five hours outside his parents' home in Leigh Acres.

Aug. 10, 2001: Zaniyah Hinson, 2, dies after being trapped in a van for up to three hours in Daytona Beach when a daycare worker inadvertently leaves the child alone in the school van while on a field trip.

Nov. 8, 2001: A 16-month-old baby, Tyrese Green from Tampa, dies from heat and dehydration after being locked inside a van for seven hours when a daycare worker forgets about her.

March 10, 2000: Kiyahn Jacquez McNeal, a 17-month-old baby boy, dies from heatstroke after being left alone in a van by daycare workers in Gainesville.

--STAFF RESEARCHER WILLIAM LUCEY

Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission.

Abstract (Document Summary)Sierra, 42, took [Andres Sierra] to work with him in the Mission Bay Office Plaza about 9:30 a.m. Thursday. About three hours later, a relative called to find out how Sierra and Andres' day was going, setting off a frantic but futile rescue attempt beside his Ford Explorer. The toddler died in West Boca Medical Center at 1:27 p.m., according to sheriff's spokeswoman Diane Carhart.